

DAVID DELL'AQUILA,
LORANNA BORJA,
TODD CHESNEY, and
BRENT WEBER, on behalf of themselves
and all others similarly situated,

V.

Defendants.

JURY DEMAND

Second, Plaintiffs' Second Amended Complaint does not satisfy the heightened pleading standards applicable to their fraud and RICO claims. All of Plaintiffs' claims center around the allegation that the NRA Foundation made supposedly false "solicitations"—but Plaintiffs never specify those statements, identify the speaker(s), or allege where/when the supposedly false statements were made. The Second Amended Complaint therefore fails to meet Rule 9(b)'s particularity requirements.

Third, Plaintiffs' Second Amended Complaint does not plausibly allege the elements of their fraud and RICO claims. It does not plausibly allege the NRA Foundation knowingly made any false representations. Nor does it allege the NRA Foundation ever made any "solicitations" via the U.S. Postal Service. It also fails to allege any specific affirmative misrepresentations or identifies any basis for inferring scienter (as required under RICO).

Accordingly, Plaintiffs cannot obtain relief against the NRA Foundation under any set of facts consistent with their allegations. This Court should therefore dismiss all claims against the NRA Foundation.

Dated: February 19, 2020

Respectfully Submitted,

NEAL & HARWELL, PLC

/s/ Aubrey B. Harwell, Jr.

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CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of the Court on February 19, 2020, using the CM/ECF system, which will send notification to all counsel of record as listed below.

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